

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BURNIS HERRING,) CASE NO. C09-1637-JLR-MAT
Petitioner,)
v.) ORDER TO SHOW CAUSE
WASHINGTON STATE PENITENTIARY,)
et al.,)
Respondents.)

Petitioner Burnis Herring, proceeding pro se and in forma pauperis, has filed a 28 U.S.C. § 2254 habeas corpus petition. (Dkt. 1-2.) On December 8, 2009, the Court declined to serve his petition because Mr. Herring sought to amend his original petition and also because he had not named a proper respondent. (Dkt. 11, at 1-2.) The Court did, however, grant Mr. Herring leave to amend his petition within thirty (30) days, noting that the amended petition would serve as a complete substitute for the original petition and that failure to file an amended petition could lead to a recommendation of dismissal. Mr. Herring should have filed an amended petition by January 7, 2010, but has not done so.

Mr. Herring is ORDERED to show cause within thirty (30) days why his habeas petition

01 should not be dismissed for failure to comply with the Court's Order dated December 8, 2009.
02 Should Mr. Herring choose to file an amended petition in lieu of, or in addition to, a response to
03 this show cause order, the amended petition should name a proper respondent and include any
04 additional argumentation and exhibits he has filed in scattered papers. (Dkt. 11, at 1-2.) The
05 amended petition must be filed under the same case number as this one, and will operate as a
06 complete substitute for, rather than a mere supplement to, the present petition. *See Ferdik v.*
07 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). If Mr. Herring fails to comply with this Order,
08 the Court may recommend dismissal of this petition.

09 The Clerk is directed to send copies of this Order to petitioner and to the Honorable
10 James L. Robart.

11 DATED this 29th day of January, 2010.



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13 Mary Alice Theiler
14 United States Magistrate Judge
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